

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 17479 of 2004

Between:

B.Sudershanam, S/o Laxmaiah,
R/o H.No.SRT 350, Jawahar Nagar, Chikkadpally, Hyderabad

..... PETITIONER

AND

- 1 The Commissioner of Labour, Chikkadpally, Hyderabad
- 2 The Dy.Commissioner, Municipal Corporation of Hyderabad,
Circle No.3, Abids, Hyderabad
- 3 Mr.Narender, S/o Late Babaiah,
R/o H.No.SRT 358, Jawahar Nagar, Chikkadpally, Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or orders or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents as illegal, arbitrary, unconstitutional and in violation of Principles of Natural justice and consequently direct the Respondent No.1 and 2 herein to protect the Government land from grabbing by the Respondent No.3 herein and may pass such other order or orders or directions as this Hon'ble Court may deem fit and proper in the circumstances of the above case in the interest of justice.

Counsel for the Petitioner:MR.M.PARTHA SARATHY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for respondent No.2: Sri Ganta Rama Rao

The Court made the following :

ORDER:

The petitioner, who was an allottee of house bearing No.SRT 350 from the 1st respondent-Commissioner of Labour under a registered sale deed No.1358 of 1988, filed the present writ petition stating that a portion of his house property is going to be demolished by the MCH under road widening scheme and he constructed a compound wall and fixed a gate at the rear side of his house by obtaining an order in WPMP No.11156 of 1997 in W.P.No.9134 of 1997 by using the same as way to his residence. While so, the 3rd respondent is trying to grab the Government land by constructing a room and proceeding with construction activity, which is being used by the petitioner as pathway. He further submits that he made

complaints regarding the encroachment to the 1st and 2nd respondents dated 1.12.2001 and 3.6.2004 respectively, but no action is forthcoming.

Having regard to the facts and circumstances of the case, I am of the opinion that the fact whether the petitioner is entitled to erect a gate towards the lands of the 3rd respondent or whether the 3rd respondent is trying to encroach upon the lands of the petitioner has to be decided by a competent civil court and this court cannot entertain a writ petition on mere assertions of the petitioner that the said land is a government land. The remedy for the petitioner, if any, is to approach the competent civil court to see that his easementary rights cannot be impaired by such construction by the 3rd respondent. However, it is for the 2nd respondent to see that the roads which are earmarked towards the passage will not be encroached by the adjacent land owners.

The writ petition is accordingly dismissed giving liberty to the petitioner to approach the competent civil court for appropriate relief. No costs.

29.9.2004

CVM

To,

- 1 The Commissioner of Labour, Chikkadpally, Hyderabad
- 2 The Dy.Commissioner, Municipal Corporation of Hyderabad,
Circle No.3, Abids, Hyderabad
3. 2 CCs to G.P. for Labour, High Court of A.P., Hyderabad (OUT).
4. 2 CD copies.